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FISCAL IMPACT STATEMENT

LS 7747

BILL NUMBER: HB 1585

NOTE PREPARED: Jan 14, 2007

BILL AMENDED:

SUBJECT: Food Handling Regulations.

FIRST AUTHOR: Rep. Burton

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill provides exceptions to the definition of "food establishment" for purposes of the law establishing sanitary requirements for food establishments. The bill repeals an exemption to the food establishment sanitary standards in place for certain organizations that are exempt from the State Gross Retail Tax. This exemption would otherwise expire on January 1, 2008.

Effective Date: July 1, 2007.

Explanation of State Expenditures: *Food Establishment Sanitary Standards:* The role of the Indiana State Department of Health (ISDH) in enforcement of the sanitary standards is limited to inspections on state-owned properties such as state parks and the State Fairgrounds. The State Fair Board currently requires all participants involved in the sale of food items to comply with the sanitary requirements and to be inspected. The ISDH also provides consultation and inspection assistance to local health departments upon request. The provisions of this bill would be expected to have limited impact on the level of resources used by the ISDH to enforce the sanitary requirements for food establishments.

Appropriation Background: The State Department of Health administrative appropriations were made from the dedicated Tobacco Master Settlement Agreement Fund for FY 2006 and FY 2007. The source of the FY 2008 and FY 2009 ISDH administrative appropriations will be determined by the General Assembly. Revenues from fees and penalties collected by the ISDH are deposited in the state General Fund, with augmentation allowed in amounts not to exceed the additional revenue from fees or penalties received after July 1, 2003.

Explanation of State Revenues: This bill refines the definition of "food establishment" to clarify that

certain types of food-related functions held by private individuals, nonprofit groups, and religious organizations are not included in the definition of a food establishment for the purpose of enforcing the sanitary requirements. The fiscal impact to the state would be limited, if any.

Under the current statute, exempt organizations may waive exemption and apply for a license. The State Department of Health reported that they do not track how many nonprofit organizations file waivers of the exemption with the Department. The Department does not charge a fee for organizations filing waivers of exemption.

Background Information on Food Establishment Sanitary Standards Penalties: Monetary penalties provided under the State Department of Health rules concerning sanitary requirements for food establishments promulgated at 410 IAC 7-23-1 include fines that have a maximum penalty of up to \$1,000 per day for noncompliance. Civil penalties collected are deposited in the state General Fund or local health department fund.

Certain violations may also be considered to be Class B misdemeanors. The maximum fine for a Class B misdemeanor is \$1,000. Criminal fines are deposited in the Common School Fund.

If cases are filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the judicial salaries fee (\$15), the public defense administration fee (\$3), the court administration fee (\$2), the judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures: Local health officers are responsible for the local enforcement of the sanitary requirements for food establishments. Enforcement actions may be one of two options. The local health officer may (1) furnish evidence to the local prosecutor or (2) file a report with the State Department of Health. This bill would continue to exempt certain food-related activities of nonprofit and religious organizations, potentially relieving the local health officers from enforcement inspections of the State Department of Health rules.

A Class B misdemeanor is punishable by up to 180 days in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: Food establishments that do not fit the specified exceptions to the definition are required to comply with local licensing requirements for retail food establishments that include an annual fee. The State Department of Health reported that some counties waive the fee for charitable organizations but that this is not a statewide practice. If a local ordinance requires a license fee, this bill would result in the continuing loss of local license fee revenue after July 1, 2007. The amount of revenue affected by the provisions of this bill is not known.

If additional court actions occur and a guilty verdict is entered, local governments receive revenue from the following sources: The county general fund receives 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town

general fund. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: State Department of Health.

Local Agencies Affected: Trial courts, local law enforcement agencies, local health officers.

Information Sources: State Department of Health.

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